



DEFERRED COMPENSATION ADVISORY COMMITTEE

MINUTES

Thursday, February 28, 2008

For information about this meeting, contact the Deferred Compensation Program Office at 408-975-1465 or email cheryl.boston@sanjoseca.gov

Chair Pascal Roubineau called the Deferred Compensation Advisory Committee meeting to order at 9:05 a.m. on Thursday, February 28, 2008, City Hall, Wing, W-118

Roll Call

Pascal Roubineau, Chair
Peter Jensen, Vice Chair
Julia Cooper
Trish Glassey
Mark Skeen
Conrad Taylor

Employees' Representative
City Manager's Representative
City Manager's Representative
Employees' Representative
Firefighter Representative
Police Representative

Excused Absence

Donna Busse

Management Employees' Representative

Also Present

Susan Devencenzi
Jeanne Groen
Cheryl Boston
Courtney Phommachack
Connie Aparicio-Yanez
Sue Bradford-Moore
John Dam
Bruce DeMers
Adora Gailo
Gracie Martinez
Brad Imamura
Bill Tugaw
Gary Bozin
Peter Belardinelli
Chris Cavalli
John Grotts
Chip Holden

Attorney
Human Resources, Benefits Manager
Human Resources, Deferred Compensation Staff
Human Resources, Deferred Compensation Staff
Risk Management
SJREA
Risk Management
Police & Fire Retirees
Finance
Finance
Participant
Consultant, SST Benefits
ING
ING
Willis Risk & Insurance Services of Silicon Valley
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9:00 – 11:00 A.M.

February 28, 2008

City Hall, Wing W118

APPROVAL OF MINUTES

1. M.S.C. (Jensen/Glassey) to approve minutes for the January 24, 2008.

OLD BUSINESS**2. Update on appointment of Police Representative Conrad Taylor**

Chair Roubineau acknowledged appointment of Conrad Taylor as a Full-Trustee of the Deferred Compensation Committee.

3. Update on expansion of the investment options available in the Deferred Compensation and execution of instruction to TD Ameritrade –

Jeanne Groen advised that the direction from the committee to direct Human Resources to implement the TD Ameritrade agreement had been completed and the instructions were with ING. Staff will work with ING to implement.

4. Update on Investment Sub-Committee meeting date

Bill Tugaw stated the Investment Sub-Committee would be meeting April 1, 2008 from 9:00A.M. to 10:00A.M. at City Hall in Room W-118. As a Public Meeting, all are welcome to attend.

5. Results of quarterly non-personal expenditures evaluation –

Jeanne Groen reviewed her evaluation on the quarterly non-personal expenditures, specifically, whether the first quarter's report of 13% was anticipated to be low. Generally first quarter expenditures will be lower than other quarters; due to accruals posting in the first quarter following the close of the fiscal year in July; and the significant budget expenses posted in the second quarter for the Committee members and staff attendance at the NAAGDA Conference.

NEW BUSINESS**6. Approval of the Advisory Access Agreement with ING Life Insurance and Annuity Company to implement the Morningstar managed accounts services**

City Attorney, Susan Devencenzi advised that the agreement between the City of San Jose and ING to establish the service with Morningstar and provide reporting to participants was available for approval by the Committee. Ms. Devencenzi noted that ILIAC's liability will be limited to fees paid by participants. The second agreement required to complete the implementation is between the City and Morningstar and is not ready for approval. The Attorney is working with Gary Bozin of ING to request that Morningstar delete the arbitration provision.

M.S.C. (Jensen/Taylor) to approve ING Advisory Access Agreement to implement the Morningstar managed accounts services.

7. ING Website enhancements

Gary Bozin of ING highlighted the enhancements to the ING Plan Sponsor and Participant Websites. Member Cooper asked that the Human Resources (HR) Code of Ethics be highlighted to ensure City of San Jose employees understand that Deferred Compensation staff is only to access employee account information in the regular course of business in order to aid an employee per their request, during employee counseling sessions, or for problem resolution.

8. Review and Approve 2008-09 Budget

Jeanne Groen presented the Fiscal Year 2008-09 Budget Proposal, anticipating FY08-09 revenues of \$423,055 based on administrative reimbursements from the providers in the amount of \$395,257 plus \$15,020 (FY 2007-08 Adopted + 3.8% Bay Area CPI), plus the interest income which is conservatively estimated to be \$12,778 as it has in previous years. The base calculations were provided by the budget office. Most of the requests for increases in the Non-Personal budget reflect projected costs from previous year and proposed needs. Ms. Groen is not recommending an increase in headcount to the Personal budget at this time due to lack of data on workload. Funding of overtime hours and pool staff is incorporated to complete the workload and maintain the program. Member Glassey asked that future interest income rates come from Finance.

M.S.C. (Jensen/Taylor) to approve FY 08-09 Budget proposal for presentation to the budget office. Staffs to bring further research on what the other City departments are considering for audio recordings of meetings as an alternative for the Granicus budget cost.

9. Discuss needs, topics, dates for DCAC Retreat

Item deferred until the March meeting due to the time sensitivity of item number eleven.

10. Update and direction on Fiduciary Insurance policy expiring April 11, 2008

Jeanne Groen reviewed the Committee's previous discussion and the expiration of the current Fiduciary Insurance premium coverage of \$1 million which covers damages, including defense cost. Risk Management assisted in securing quotes and requested competitive comparison of premiums and coverage amounts of \$1 million, \$2 million, \$3 million, and \$5 million. Connie Aparicio-Yanez of Risk Management introduced Chip Holden of Willis Risk & Insurance Services of Silicon Valley. Mr. Holden informed the Committee that the quotes were for a Claims Made Policy, coverage is as of date the claim is made with defense costs capped to maximum limits. Coverage can be eroded by defense costs and or claims. Committee asked Mr. Holden for benchmarks in coverage for plans of similar size. Mr. Holden explained that this was semi-unique coverage, in the private sector it is common for coverage to be set at 5-10% of asset value. In the Public Sector, 1-2% is more commonly seen. Willis provides premiums less commission. Warranty limits for incidents prior to increase in coverage are limited to amount of coverage when the incident happened, but paid under current coverage. Waiver of Recourse; endorsement to remove waiver, protects trustees from carrier recourse against individual trustees. Both companies have waived recourse fees. However, there is a cost built into both quotes. The Chubb endorsement will

show a \$25.00 per trustee and cost is built into the premium for these fees. The AIG option does it differently and would need to be added to their premium and would be the same dollar value. The City has historically paid for this fee because of the exclusive benefits rule, Human Resources should pay for this fee totaling \$175.00 or the individual trustees should pay.

Jeanne Groen reviewed the original budget of \$15,500 had been retained for the 2008-2009 premium for their consideration in reviewing the coverage amounts and costs for FY07-08.

Chair Roubineau asked Consultant Tugaw what other Plans typically carry. Bill Tugaw replied that the City of San Jose was one of the only organizations he was aware of that have this coverage. City Attorney reviewed Government code provision which requires the Public Employer to defend employees who are sued over actions taken in the course and scope of their duties and noted that defense costs could reach \$1 million. Bill Tugaw raised a new 401 ruling, which allows an employee to sue the employer if they can prove damages if they were not enrolled properly or if investment changes were not properly executed. City Attorney clarified that this is an ERISA case and the right to sue has to do with a loss of plan assets. City of San José 457 plan is not covered under ERISA.

Differences between the providers include deductibles; Chubb policy is \$1,000 across all coverage amounts except at the highest offering at \$10 million, it goes up to \$25,000; the AIG offering is \$5,000 on the deductible for the first two, and then it increases accordingly and increases to the same highest threshold at the highest limit. There are different provisions on fines and penalties.

M.S.C. (Jensen/Cooper) that the Committee approves to continue to have some form of Fiduciary Liability Insurance.

M.S.C. (Jensen/Taylor) to select Chubb as Carrier.

Motion brought by Vice Chair Jensen to continue \$1 million coverage was not seconded and further discussions between Committee members continued regarding defense costs and payout if a claimant prevailed and whether the current coverage based on growing plan assets was sufficient. Some discussion regarding selecting the \$1 million now and increasing at a later time was raised by Chair Roubineau. Member Taylor encouraged the Committee to make a final decision at this session.

M.S.C. (Glassey/Taylor) to increase Fiduciary Liability Insurance coverage to \$5 million.

11. Update and direction on Macias, Gini & O'Connell audit contract extension for FY07-08 and FY08-09

Jeanne Groen informed the Committee that the current contract for audit services was expiring on April 30, 2008 when the City Auditor's Office contract expired. The Deferred Compensation Program has the option for an extension, and would like to coordinate with the City Auditor. The position within the City Auditor's department for the person who manages this contract and RFP process is currently open and the department is waiting until the position is filled to decide on the status of this contract, whether to extend or go out for an RFP. Staff will update the Committee.

12. Accept the Deferred Compensation Financial Report for the Second Quarter FY 07-08

Item deferred to the March meeting due to the lateness of the hour.

SUBCOMMITTEE REPORTS/RECOMMENDATIONS

Items deferred to the March meeting due to the lateness of the hour.

INFORMATIONAL ITEMS

Items deferred to the March meeting due to the lateness of the hour.

PUBLIC COMMENTS

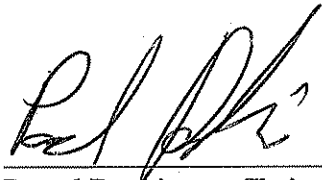
None

UNFORESEEABLE EMERGENCY WITHDRAWAL

16. None

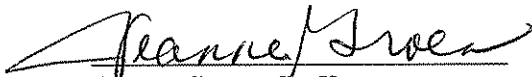
ADJOURNMENT

M.S.C. (Taylor/Glassey) to move unresolved items to next meeting and adjourn current meeting.



Pascal Roubineau, Chair
Deferred Compensation Committee

ATTEST:



Jeanne Groen, Staff
Deferred Compensation

NOTE: M.S.C. MEANS MOTION SECONDED AND CARRIED, UNLESS OTHERWISE INDICATED, MOTION PASSED UNANIMOUSLY.